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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-second session

SUMMARY RECORD OF THE 1256th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 9 March 1998, at 3 p.m.

Chairman: Mr. ABOUL-NASR

later: Mr. YUTZIS

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Thirteenth and fourteenth periodic reports of Ukraine

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GE.98-15499 (E)

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Thirteenth and fourteenth periodic reports of Ukraine (CERD/C/299/Add.14; HRI/CORE/1/Add.63/Rev.1)

1. At the invitation of the Chairman, Mr. Yefimenko, Mrs. Kovalska and Mr. Semashko (Ukraine) took places at the Committee table.

2. Mr. YEFIMENKO (Ukraine) said that Ukraine had achieved independence just over six years previously and was currently faced with the dual task of converting from totalitarianism to democracy and from a centrally planned economic system to a market economy. In addition to inheriting a structurally distorted and ravaged economy, the country was saddled with the enormous financial burden of dealing with the consequences of the accident at the Chernobyl nuclear power station, which had been directly responsible for a worsening of the material living conditions of the entire population, leading to heightened social tension, and had impeded the process of State reform.

3. The protection of human rights and freedoms had been given high priority in the process of democratization, particularly through legislative reform conducted in cooperation with the Office of the High Commissioner for Human Rights, other United Nations bodies, the Council of Europe and the Organization for Security and Cooperation in Europe. In November 1995, Ukraine had become a member of the Council of Europe and in June 1996 had adopted a new Constitution. The European Commission's draft conclusions on the Constitution, "Democracy through law", adopted in January 1997 stated that the rights guaranteed by the Constitution demonstrated Ukraine's desire to protect all the rights set forth in the European Convention for the Protection of Human Rights and Fundamental Freedoms. A Parliamentary Committee had been set up to deal with human rights issues, national minorities and relations among the nationalities. New legislation had been adopted to strengthen individual rights, the legal machinery for the protection of human rights and freedoms was continually updated and Ukraine had become a party to a large number of international human rights treaties. International and local human rights organizations had been registered and working contacts had been established with international governmental and non-governmental organizations (NGOs) working in the area of human rights. Forums were held to combat all forms of racial discrimination and human rights information was disseminated through publications, scientific programmes, teaching materials and recommendations.

4. The Constitution prohibited discrimination based on race, colour of skin, language, religion and other characteristics, and guaranteed every individual the right to qualified legal assistance, judicial protection of rights and freedoms, equality before the law and the courts, liberty and security of person, and the right to seek protection through the Human Rights Commissioner of the Supreme Council (the Ombudsman). The Constitution also guaranteed the right to own private property, including land.

5. In response to the Committee's criticism of Ukraine's compliance with article 4 of the Convention following its consideration of Ukraine's twelfth periodic report, he drew attention to article 66 of the Criminal Code, under which any violation of the equality of rights of citizens on grounds of race, ethnic origin or religious affiliation was a criminal offence.

6. Ukraine had ratified the Council of Europe Framework Convention for the Protection of National Minorities and adopted the following domestic legislation during the period 1992-1998: the Act on the Human Rights Commissioner of the Supreme Council of Ukraine (the Ombudsman); the Constitutional Court of Ukraine Act; the Act concerning Refugees; the Act on National Minorities in Ukraine; the Act on the Legal Status of Foreigners; the Basic Principles of Legislation on Culture; and the High Council of Justice Act. Article 21 of the Act on the Ombudsman stipulated that access to his services was open to everyone without discrimination on any grounds, including prisoners, whose correspondence with the Ombudsman or his representative was not subject to censorship or control.

7. Article 26 of the Constitution guaranteed freedom of association in political parties and other organizations for the purpose of protecting rights and freedoms as well as political, economic, social, cultural and other interests. The 1992 Act concerning Citizens' Associations specified the status of such bodies and regulated their formation, commercial activities and legal responsibilities. Any such association that engaged in incitement to national or religious hatred or to curtailment of generally recognized human rights was denied legal status or disbanded. Responsibility for the legal recognition of citizens' associations lay with the Ministry of Justice and the local authorities. As of February 1998, 18 organizations for the protection of human rights were registered with the Ministry of Justice.

8. The Charity and Charitable Organizations Act of October 1997 provided for State support for benevolent and humanitarian organizations. The organizations registered with the Ministry of Justice in February 1998 included five benevolent funds for the protection of human rights, seven charitable organizations operating in Crimea on behalf of the Crimean Tatar population and the Roma Association of Ukraine. Roma organizations were also registered in the regions of Transcarpathia, Kiev, Odessa and Lvov.

9. Ukrainian bodies with special responsibility for implementation of the Convention included the Human Rights Commissioner or Ombudsman, the Parliamentary Committee on Human Rights, National Minorities and Relations among Nationalities, the Ministry of Justice, the State Committee on Nationalities and Migration, the Ministry of Foreign Affairs, the Ministry of Internal Affairs and the State Committee on Religion. The Constitutional Court was responsible for ensuring the constitutionality of legislation and article 43 of the Constitutional Court of the Ukraine Act accorded Ukrainian citizens, foreigners, stateless persons and bodies corporate the right to approach the Court for a legal opinion.

10. Legal information regarding the protection of national minorities could be obtained from the weekly Official Gazette of Ukraine and through legal education programmes, further training courses and human rights courses offered at institutes of higher education.

11. The Constitution and the legislation on languages and national minorities provided for voluntary education in minority languages. Article 10 of the Constitution guaranteed the free development, use and protection of Russian and other minority languages. Members of national minorities were entitled to use their national given name and family name and all privileges or discrimination on grounds of race, skin colour, language or other characteristics were prohibited.

12. All domestic procedures required for the entry into force of the European Framework Convention for the Protection of Minorities had been completed. Having appropriated a large volume of funds for its implementation, Ukraine hoped that some 12 million ethnic Ukrainians living in other States would benefit from comparable protection. A special State programme had been developed to address their cultural, educational, social and economic problems. The rights of Ukrainians resident abroad were currently protected primarily through multilateral and bilateral treaties. In that context, Ukraine was staunchly committed to observance of such principles of international law as territorial integrity and non-interference in the internal affairs of other States.

13. Article 10 of the Legal Status of Foreigners Act stipulated that foreigners permanently resident in the Ukraine were entitled to medical care on an equal footing with Ukrainian citizens. Medical care for other foreigners was subject to the provisions laid down by the Cabinet of Ministers.

14. The Information Act, which stipulated that information must not be used for incitement to racial hatred, was applicable to all information-related activities in every field of communal and public life. The Information Agencies Act, the Press in Ukraine Act, the Television and Radio Broadcasting Act and the Publishing Act not only prohibited incitement to racial and ethnic hatred but stipulated that those found guilty of such incitement were liable to prosecution under article 66 of the Criminal Code.

15. The Ukrainian authorities were doing their utmost to address political, legal and economic problems related to the return and resettlement of deportees. Under the Act concerning the Supreme Council of the Autonomous Republic of Crimea adopted on 10 February 1998, Crimean Tatars and other former deportees who had taken up permanent residence in Ukraine were not subject to the five-year residence requirement for election to the Supreme Council of Crimea. Pursuant to Decree No. 636 of 1995 concerning measures for the solution of problems in the Autonomous Republic of Crimea, a Programme of Priority Measures for the resettlement of deportees during the period up to the year 2000 had been adopted. It provided, inter alia, for major expenditure on housing, social facilities and infrastructure such as roads and telecommunications. However, the adverse economic situation had led to a sharp decline in funds and a corresponding slowdown in the resettlement programme, particularly with regard to housing. About 11,000 families were still on the waiting list and the rising cost of building materials meant that most returnees were unable to complete private home construction projects. The Government was therefore seeking alternative funding sources, notably from abroad.

16. To facilitate access to Ukrainian citizenship for former deportees, the Supreme Council had adopted amendments to the Citizenship Act, which abolished such requirements as five-year minimum residence, knowledge of the Ukrainian language and access to means of subsistence. As a result, almost 2,000 persons had acquired citizenship in the previous three months. Under paragraph 46 of Presidential Decree No. 385 of 1997, former deportees were guaranteed equal rights of participation in the process of privatization of State enterprises.

17. The Supreme Council was currently considering a bill concerning the rehabilitation and protection of the rights of members of repressed national minorities who had been deported from the territory of the Ukraine. A further important measure was the conclusion of an agreement between the Ministry of Education and the Council of Ministers of the Autonomous Republic of Crimea on State funding for the training of professionals in the social and cultural field under a special training and retraining programme for Crimea. Higher educational establishments had been training specialists since 1996 to meet the needs of the Autonomous Republic and the city of Sevastopol. The Republic's employment centre had also opened a vocational training facility for returnees.

18. A draft comprehensive State programme for the adaptation and integration into Ukrainian society of formerly deported Crimean Tatars would shortly be submitted to the Cabinet of Ministers. It provided for extension of the network of schools teaching through the medium of the deportees' native language and the provision of corresponding textbooks, teaching materials and dictionaries. An essential component of the programme was the set of priority measures for 1998-1999 designed to promote a revival of the culture of the Crimean Tatar people, including cultural values, the establishment of a system of educational, scientific and publishing activities in the Crimean language and the revival of historic Crimean toponyms.

19. The Act concerning the Supreme Council of the Autonomous Republic of Crimea stipulated that Council legislation would be published and disseminated in the Ukrainian, Russian and Crimean-Tatar languages.

20. Ukraine's national minorities included about 48,000 Roma. In 1990 the Roma of Transcarpathia had established three associations, the leader of one of which was also a deputy in the Regional Council. The associations focused on the promotion of educational and employment opportunities for young people and on social and cultural issues. They had relations with the Roma Parliament in Hungary and Roma organizations in other European countries. Since 1996, a number of schools in Mukacheve and Uzhgorod had begun to teach in the Roma language, using textbooks from neighbouring countries. There was an index of Roma cultural figures and the Roma theatre in Kiev had acquired State theatre status in 1995. Premises had been provided for the Roma Cultural Centre. In recent years, research had been undertaken on Roma religion, settlement and folklore. The ethnic and cultural interests of the Roma minorities would also be served by the State Programme (1994-2000) for the revival and development of the education of national minorities in the Ukraine, the annual State programme for the publication of literature in the languages of the national minorities and the draft State programme for the development of the culture of national minorities up to the year 2000.

21. Despite substantial progress in implementing the Convention, Ukraine was not intending to rest on its laurels. The fact that a totalitarian regime had held sway for more than 70 years had had a negative effect and required continuing efforts to consolidate democracy. Ukraine's ratification of the human rights instruments of the Council of Europe and recognition of the jurisdiction of the European Court of Human Rights, and its determination to ensure the practical incorporation of the mechanisms for the protection of human rights and fundamental freedoms with a view to ensuring stricter compliance with international human rights instruments, had brought the country closer to the achievement of its strategic goal: to build a citizens' society based on the rule of law. Consideration of the report should help the Committee to understand the difficulties faced by Ukraine and appreciate the appropriate and timely measures taken by State bodies and public organizations to protect and ensure the enjoyment of human rights.

22. Mr. van BOVEN (Country Rapporteur) said his sources of information in considering the State party report had included the oral information just provided by the delegation; the revised core document (HRI/CORE/1/Add.63/Rev.1), which had taken account of the new Constitution of 1996 in particular; legal texts; intergovernmental organizations; the concluding observations of other treaty monitoring bodies; and NGOs. He had been surprised by the statistics provided in the core document on life expectancy (paragraph 9): whereas in most countries it was increasing, the reverse trend was evident in Ukraine.

23. The country was clearly in a state of transition. It was also a complex country, with more than 100 nationalities. It had new constitutional structures and was facing issues relating to the return and needs of a large number of formerly deported people. Unfortunately, he found it necessary to repeat the Committee's concluding observations on the previous report (A/48/18): the report did not always specify exactly the extent to which the Convention was being implemented; legislation had still to be enacted to implement the punitive provisions of article 4; no information had been provided on complaints and convictions for acts of racial discrimination; and the demographic data could have been presented in a more illustrative way.

24. The structure of the report was on the whole unsatisfactory. Most of the information on article 2 of the Convention concerned relations between Church and State, which was outside the scope of the Convention unless religion was closely connected with ethnic or national origin, as sometimes happened, in which case it should have been explained. Information was needed on the actual implementation of the provisions of article 2, paragraph 1 (d). The information under article 3 bore little or no relation to the article. Were the amendments and supplements to the Act on National Minorities still in draft form? The information on article 66 of the Criminal Code related to article 4 of the Convention. The paragraphs on articles 4, 5 and 6 contained nothing on article 4; paragraphs 33-35 should have been dealt with under article 2; paragraphs 36-51 touched on article 5, but not from the viewpoint of the Convention; and paragraphs 52-56 related to article 6. What was included under article 7 was largely pertinent, except for paragraph 65, on access to public places and services, which was actually relevant to article 5 (f).

25. As to the content, he had never before seen a constitutional provision such as the one in article 12, on the rights of nationals residing abroad, but he conceded that, as there were between 10 and 12 million Ukrainians in that situation, there might be good reasons for it.

26. His attention had been drawn in particular to Chapter X of the Constitution, on the Autonomous Republic of Crimea. It was of special concern that Ukraine, which had been a member of the Council of Europe since 1995 and had ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms and several of its protocols, had not ratified Protocol No. 6, on the death penalty. Normally that was not an immediate concern of the Committee, but on death penalty issues it was not unusual for certain ethnic or national groups to be more victimized than others. What was the Government's position?

27. The Framework Convention for the Protection of National Minorities had also been ratified, but had its ratification been accompanied by a statement of what Ukraine considered to be national minorities? The Convention did not define that and left it largely to the discretion of the State to indicate which minorities it covered.

28. He asked whether Ukraine was considering ratifying ILO Convention No. 169, on indigenous and tribal peoples in independent countries.

29. Paragraph 16 of the report, on national minorities, showed positive efforts in terms of legislation, measures taken in the field of language and culture and the creation of a climate conducive to peaceful coexistence. The World Directory of Minorities, published by the Minority Rights Group, had stated that Ukraine had still to foster a multi-ethnic sense of nationhood among its population. The liberal legislation on minority issues and the moderate reaction of the Government to ethnic questions, including the secessionist movement in Crimea, indicated that most politicians viewed Ukraine as a melting pot rather than as an ethnically defined State. Unless ethnic tensions were aggravated by external forces, notably Russian nationalists, minority relations were likely to develop peacefully.

30. How were the laws on national minorities applied? In the country as a whole, the Russians, who represented some 22 per cent of the population, were a national minority, but in Crimea, they were a majority, about 67 per cent, and Ukrainians a minority, at 26 per cent. What were the implications in terms of the use of language, schools, cultural establishments and so forth? He doubted whether international instruments provided a response to the question of the treatment of people belonging to the majority population of a State, but who constituted a minority in a particular territory or region of the same State. How did Ukraine view the situation?

31. How was article 11 of the Constitution interpreted and applied? United Nations documents and the Committee's own interpretation differentiated between indigenous peoples and minorities. Usually, the former were entitled to a broader scope of rights. Was there such a difference in Ukraine, and could examples be given of who were considered indigenous peoples? Did that designation include the Crimean Tatars, or were they viewed as a minority?

32. The return and rehabilitation of persons deported under the totalitarian regime (paragraph 18) was one of the dramas of history. He appreciated the efforts made to resettle and rehabilitate the 250,000 Crimean Tatars and others who had returned to Crimea in recent years. Despite limited resources, priority measures were being taken to resettle and house them, but there was a need for additional sources of funding. In that regard he recalled the Committee's General Recommendation XXII, on the rights of refugees and displaced persons, notably the right to have property returned to them. A new law on the rehabilitation of victims of political repression was currently under consideration. Did it deal with the return of property and restoration of civil rights?

33. The Act on Ukrainian Citizenship had been amended in 1997. Until recently, former deportees, notably those who had left Uzbekistan to resettle in Ukraine after July 1992, had had to contend with many bureaucratic and financial difficulties in seeking to acquire or regain Ukrainian citizenship, with the result that those people - many of them Crimean Tatars - had been de facto left stateless and deprived of certain basic rights and services. Was he correct in assuming that the 1997 amendment had abolished the five-year rule on acquiring citizenship? Could it be assumed that implementation of the amendment had removed unreasonable obstacles that discouraged the returning deportees from applying for citizenship? If so, it was a very encouraging development.

34. On the issue of languages, paragraph 17 of the report referred to the European Charter on Regional and Minority Languages; had it already been ratified? Paragraph 59 dealt with the unrestricted use of languages of national minorities in the national educational system, while paragraphs 60, 61 and 64 provided more detail about instruction in the different languages in schools and their use in the media. Article 3 of the Declaration on the Rights of Nationalities in Ukraine safeguarded the right of citizens to make free use of the Russian language in districts densely inhabited by members of several national groups; any language acceptable to the entire population of an area could be used alongside Ukrainian, the State language. What did that mean? Who decided on what was "acceptable"?

35. The information in the report on article 3 of the Convention was interesting, but was not related to the article in question. The next report should take due account of the Committee's General Recommendation XIX.

36. More information was needed to assess the extent to which the amendment to the Act on National Minorities, and article 66 of the Criminal Code, gave effect to the mandatory provisions of article 4. He had had to conclude that the State party had failed to meet its international obligations to provide that information.

37. The report mentioned constitutional provisions in connection with article 5 of the Convention, but the Committee needed to know if there was any further legislation ensuring implementation of that article.

38. He invited the delegation to comment on the allegations made by the European Roma Rights Center regarding the situation in Transcarpathia. It reported that the police were using so-called "prophylactic" measures to

prevent crime which were targeted at Roma. It catalogued a range of measures that could only be described as harassment and gross violations of human rights, including monitoring raids on entire neighbourhoods, group arrests on the basis of little or no evidence, physical violence, forced labour, unauthorized entry into Roma homes and, in at least two instances, sexual abuse of Roma women. Such allegations should be investigated without delay and law enforcement officials should be given human rights training in accordance with the Committee's General Recommendation XIII (42). Furthermore, generous legal assistance should be provided to the Roma people.

39. In connection with article 5 (d) (iii) of the Convention, Ukraine would be well advised to consider acceding to international instruments on statelessness. Concerning the right of access to public places and services (article 5 (f)), information was needed on case law resulting from implementation of article 66 of the Criminal Code.

40. With regard to article 6 of the Convention, were citizens and lawyers aware of recourse procedures provided for in international instruments, not least article 14 of the Convention? Although Ukraine had made a declaration under article 14, no cases had come before the Committee. What measures were being taken to publicize the right of individual petition? He asked whether there were statistical data on reparation or satisfaction in relation to implementation of article 56 of the Constitution.

41. Ukraine's attitude towards multilateral and bilateral agreements that protected the rights of Ukrainians abroad was to be commended. It was also gratifying to see that Ukraine had accepted the amendments to article 8, paragraph 6, of the Convention.

42. Ukraine had made strenuous efforts and had clear policies relating to improvement of the situation of national minorities and the return and rehabilitation of persons who had been deported in the past. It was to be hoped that a generous and liberal policy regarding their right to acquire citizenship would be pursued. Ukraine's cooperation with international bodies was also laudable. However, it should consider ratifying Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty. The head of the delegation had assured the Committee that the concluding observations would be carefully studied and put into practical effect. He hoped that the records of the Committee's debate with the State party and the Convention itself would receive the same treatment.

43. Mr. RECHETOV welcomed the serious way in which Ukraine approached its obligations under the Convention, which was shown by the regular reports it submitted and the frank introductory statement made by the delegation.

44. One criticism was that the report and the oral presentation had dealt with Ukraine's links with European programmes and institutions before mentioning how it implemented the Convention, thus implying that it gave precedence to the European instruments. It should be remembered that those mechanisms were regional, while the Convention was universal in scope.

45. It was clear that relations with the Crimean Tatar population needed to be developed in Ukraine. He had received a report from the Mejlis of the Crimean Tatar people regarding discrimination against the Crimean Tatar people on the territory of Crimea which dealt with a range of problems that had been mentioned by the delegation but he also pointed out that Crimean Tatars had 14 seats on the Crimean Supreme Council, which seemed a reasonable figure. As the representative of Ukraine had said, much was being done to overcome the consequences of past injustices to Crimean Tatars and improve their conditions. More needed to be done to solve the problem of acquiring citizenship.

46. The report of the Mejlis drew attention to the fact that Crimean Tatars did not consider themselves to be a national minority or an indigenous people. It also stated that they claimed the right to self-determination in the form of national autonomy within the State of Ukraine. He wondered whether that meant that Crimean Tatars felt that the multifarious population of Crimea should be represented by one national group which accounted for only 11 per cent of the population. It should be borne in mind that the Committee unwaveringly stated that the territorial integrity of any State had to be ensured, and that the question of autonomy was not the Committee's concern.

47. During the discussion on the previous reports of Ukraine (CERD/C/197/Add.5 and CERD/C/226/Add.3), the delegation had informed the Committee that the Ukrainian Supreme Council had passed an Act on the status of the Crimean Autonomous Republic guaranteeing it a broad range of powers, with only three limitations. It had not been granted external sovereignty; it had not been vested with the power to grant its own citizenship; and it functioned under the representation of the President of Ukraine. It was not clear what the latter provision meant and whether the limitations still stood.

48. He asked for clarification as to the status of the Russian language in Ukraine and in individual regions (oblasts). Was the draft Constitution of Crimea, which would have made Russian, Ukrainian and the Crimean Tatar language official languages, in force? What special local administrative acts on the use of language were in force in Kharkov, Donetsk and Dnepropetrovsk? The Committee also needed information on the use of languages in the mass media.

49. He asked whether, in principle, decisions of an economic nature were taken at the local level. He also wondered about the situation regarding the decision to harmonize Crimea's time zone with that of Ukraine and ensuing economic losses to Crimea.

50. Information was needed on possible economic discrimination against ports in Crimea, such as the port of Kerch, resulting from the Ukrainian authorities' decision in August 1996 to remove the right to handle goods that brought in the most profit, such as vodka and brandy.

51. The CHAIRMAN endorsed the comments made by Mr. Rechetov concerning the universality of the Convention and the precedence that should be given to it over regional instruments.

52. Mr. GARVALOV applauded Ukraine's efforts to implement the provisions of the Convention and the Government's willingness to admit that problems persisted.

53. More details of the demographic composition of Ukraine were needed. Similarly, there was a dearth of specific information on article 4 of the Convention and also on the implementation of article 7.

54. He welcomed Ukraine's policies on regulating inter-ethnic relations and the fact that it had recognized the 130 nationalities and ethnic groups that lived in its territory, adopted legislation to give effect to its policy of promoting and protecting national minorities on its territories and signed and ratified certain conventions.

55. What was the difference between what were referred to in the report as "national minorities" and "ethnic groups" in terms of their exercise of civil and political rights?

56. He asked which institution was responsible for drawing up the State Convention for the Protection of Human Rights referred to in paragraph 13 of the report.

57. Concerning the Crimean Tatars, some questions remained unanswered. For instance, what prevented the Crimean Tatars from having Ukrainian nationality restored? Why had their Autonomous Republic had a different status since 1991 from that of the other regions? Was their forced deportation by Stalin in 1944 not a sufficiently valid reason for restoring their Ukrainian nationality? According to the report referred to by Mr. Rechetov, Crimean Tatars returning from Uzbekistan would first have to renounce their Uzbek nationality, because Ukraine did not recognize dual nationality. He wondered whether that was consistent with Ukraine's obligations under the Agreement on questions relating to the restoration of the rights of deported persons, national minorities and peoples (Bishkek Agreement), which Ukraine had ratified in 1993 and Uzbekistan in 1992.

58. Paragraph 60 of the report stated that only one school provided instruction in the Crimean-Tatar language. According to paragraph 61, some 60 Sunday schools had been created, at which over 73,000 pupils learned their mother tongue, yet why should the Tatar, Turkish, Turkish-Meskhetian and Uzbek minorities, whose members were mostly Muslims, have Sunday schools? Had there been Friday schools, he could understand, it being the day of prayer for Muslims.

59. According to paragraph 6 of the revised core document (HRI/CORE/1/Add.63/Rev.1), the Bulgarian minority was one of the country's largest, yet paragraph 60 of the report contained no information on any schools for the Bulgarians. Did that mean that the Bulgarians were not interested in maintaining or promoting their own language because they were so assimilated, or was it because the State party had not taken adequate measures to ensure that there were schools and classes providing instruction in Bulgarian?

60. Mr. Yutzis took the Chair.

61. Mr. VALENCIA RODRIGUEZ referred to the Constitutional provision, mentioned in paragraph 6 of the report, that international agreements which had been ratified by Ukraine's Supreme Council were part of national legislation. He interpreted that to mean that the Convention could be invoked in and applied by the courts. Could any examples be cited in which that had been done?

62. It would be useful for the Committee to have some information on legislation giving effect to article 24 of the Constitution prohibiting racial discrimination (paragraph 7). Article 26 guaranteed foreigners and stateless persons who were in Ukraine on legal grounds the same rights and freedoms as citizens, with exceptions established by the Constitution, laws or international treaties of Ukraine. Could examples be provided of such exceptions?

63. He welcomed the information in paragraphs 8 to 11 on the European human rights instruments which Ukraine had signed, as well as the statement (paragraph 14) that legislative action was being taken to bring national legislation into line with European norms and standards and that legislation was being drafted on the legal status of foreigners and stateless persons. Could the parts of those instruments of relevance to the Convention be made available to the Committee?

64. With regard to paragraphs 15 and 16, he asked the Ukrainian delegation to provide the texts of laws designed to preserve the national cultural identity of its ethnic groups and to inform the Committee of results of the practical implementation of the new laws enumerated in paragraph 16.

65. He welcomed the efforts by Ukraine to promote the return of persons deported under the totalitarian regime on grounds of national origin (paragraph 18).

66. Concerning article 3 of the Convention, he was pleased to note that the prohibition under article 18 of the Act on National Minorities in Ukraine was in the process of being extended to include acts intended to incite inter-ethnic, racial and religious hostility (paragraph 27). Could more information be provided on steps taken to punish such acts? Paragraph 29 made mention of article 37 of the Constitution, pursuant to which political parties and public associations whose programme goals or actions were aimed at incitement of inter-ethnic, racial or religious enmity were prohibited. Had that provision been applied? He observed that article 4 of the Convention concerned not only such prohibition but also required States parties to make the creation and functioning of such parties a punishable offence. Were there any other provisions in the Criminal Code which punished such acts?

67. Paragraphs 35 to 38 referred to free choice of residence and the right to leave the territory of Ukraine, with the exception of restrictions established by law. What types of restrictions were meant? Despite efforts to liberalize legislation on procedure governing departure from and entry into the country, the practice of granting authorization for single and multiple trips persisted (paragraph 37). Why had some applications to stay abroad been rejected (paragraph 38)? Could the Committee be assured that it was not for reasons of national or ethnic origin?

68. With reference to paragraph 52 of the report, he noted that Ukraine recognized the right of citizens to appeal to international bodies, for instance, pursuant to article 14 of the Convention. Had Ukrainian citizens been made aware of their right to do so? Such information should be provided in the languages of the largest minorities.

69. Could the Committee be informed about the main results of the effort to reform the judiciary so as to ensure its impartiality and independence (paragraph 56)?

70. He was pleased that instruction was given in the languages of the various minorities and that efforts were being made to satisfy the educational requirements of national minorities more fully (paragraphs 60-61). Could Ukraine inform the Committee about the further development of such initiatives?

71. Concerning paragraph 64, it would be useful to have more information on the functions of the interdepartmental commission in respect of publications inciting ethnic or racial hatred. What action had the commission taken in such cases?

72. In closing, he said that the report of Ukraine and the Committee's concluding observations should be published both in Ukrainian and in the main minority languages.

73. Mrs. ZOU Deci referred first to the lack of information in the report on the country's demographic structure. According to paragraph 6 of the revised core document (HRI/CORE/1/Add.63/Rev.1), there were 130 nationalities and ethnic groups in Ukraine, accounting for 25 per cent of the total population, but the same paragraph only provided information on a few of them. That made it difficult to have the full picture or to assess Ukraine's compliance with the Convention. She therefore asked the Ukrainian delegation to provide the Committee with comprehensive demographic statistics.

74. The report contained no information on implementation of article 4 of the Convention; in his oral presentation, the head of the Ukrainian delegation had stated that the Criminal Code had been brought into line with article 4. She sought further details on that matter. How was the revised version of the Criminal Code applied? Could information on specific cases involving racial discrimination be made available to the Committee?

75. According to paragraph 34 of the report, representatives of 12 nationalities were deputies in Ukraine's Parliament. Could the Committee have the exact figures? What percentage of the Parliament's total number of deputies did that constitute? Also, given that there were 130 national minorities in Ukraine, why did some of them have no representation in Parliament? What was the current situation of those other nationalities?

76. Mr. de GOUTTES welcomed the oral presentation of the delegation of Ukraine updating the fourteenth periodic report and giving the Committee a clearer idea of the current situation, as well as the declaration which Ukraine had made under article 14 of the Convention.

77. Concerning the situation of the churches and their new ties to the State, the report did not exclude the possibility of further religious flare-ups owing to interdenominational conflicts (paragraphs 24-25), which stemmed from attempts by various denominations (Orthodox and Catholic) to expand their spheres of influence and disputes over the use of local temples and were also the result of interference by certain local authorities in religious and church matters. That did not sound very encouraging; he sought further information on the current situation and asked whether the delegation could cite examples of the most serious interdenominational conflicts.

78. Regarding the implementation of article 4 and the fact that the Criminal Code made all acts of racism an offence, updated information was needed. The references in paragraph 31 to a new version of article 66 of the Criminal Code and in paragraph 27 to draft provisions amending existing laws were clearly insufficient to demonstrate compliance with article 4 (a), (b) and (c) of the Convention. Likewise, the report contained no data on complaints, sentencing or compensation.

79. He was surprised by the dearth of information in the report on the situation of the Roma in Ukraine. A number of NGOs, particularly the European Roma Rights Center and Amnesty International, had reported persistent serious discrimination against the Roma, including ill-treatment and violence at the hands of the police and in prisons and discriminatory practices on the part of the judicial authorities. Could the delegation of Ukraine provide more comprehensive information on that matter? What was the percentage of death sentences pronounced and carried out against Roma? In view of Ukraine's accession to the Council of Europe in 1995 and the commitment it had made at that time to introduce a moratorium on capital punishment, it would be interesting to know the position of the Government of Ukraine on the abolition of the death penalty, even if, strictly speaking, the question did not fall directly within the Committee's ambit. If he was not mistaken, in 1997 the Council of Europe's Parliamentary Assembly had adopted a resolution protesting against the continuation of executions despite the moratorium.

80. What was the role played by the convention on human rights concluded several years previously by the members of the Commonwealth of Independent States? It had been announced that those States had agreed to create a court for the protection of human rights. Could the Ukrainian delegation inform the Committee of any new developments in that area?

81. Mr. DIACONU said that Ukraine was a country which was trying to consolidate its statehood and independence. He noted that Ukraine had concluded a number of treaties with its neighbours recognizing existing borders, containing major provisions on minorities and creating a bilateral mechanism to monitor their implementation. A bilateral form of cooperation had also been created, the so-called Euro-region. Two such Euro-regions had been created between Romania and Ukraine in areas on either side of the border where minorities from the other country lived; those agreements ensured better conditions for promoting their cultural, linguistic and religious rights. That was a positive development, as were the similar agreements with Romania, Hungary and Poland. An agreement had also been concluded with the Russian Federation, but it had not yet been ratified by the State Duma.

82. The problem currently facing Ukraine had been to raise the level of instruction of the Ukrainian language, because for a long time Ukrainian had been discriminated against and not studied in school. The Government of Ukraine was also attempting to take into account the languages of minorities living on its territory. As the Country Rapporteur had rightly pointed out, there were minorities within minorities, and they must also be protected under the Convention.

83. He sought information from the delegation of Ukraine on the status of the Roma population, how it was protected and whether acts of violence had been committed against its members.

84. As in other countries of the region, educating judges and members of the police force in the spirit of the Convention was of vital importance.

The meeting rose at 6.05 p.m.